THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.20909 OF 2005

Dated 21st February 2006

Between:

Dr.V.Bhanu Prasad S/o.V.Chandrasekharam

…Petitioner

And

Acharya N.G.Ranga Agricultural University,

Rep. by its Registrar, Rajendranagar, Hyderabad.

…Respondent

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.20909 OF 2005

O R D E R:

The petitioner was appointed as an Instructor, on 5.7.1971, by the respondent University. Thereafter, he was promoted as an Associate Professor. For a period of 10 years, between 1991 and 2001, he worked as Warden of the hostel of Agricultural College at Bapatla.

Petitioner was issued a charge memo dated 5.11.2001, in which 7 Articles of Charge were framed, and he was directed to show cause as to why disciplinary action shall not be taken against him. The charges mostly related to his alleged

failure in recovering the dues of mess charges from the students, for the period November 1996, and December 1997 to December 1998. The petitioner approached this Court, initially, by filing W.P.No.18671 of 2001, when his case was not considered for promotion to the post of Professor, on the ground that the disciplinary proceedings are pending. Thereafter, he filed W.P.No.12104 of 2003, assailing the very show-cause notice. At various stages, directions were issued to the respondent, to conclude the disciplinary proceedings, by 15.6.2004. The respondent issued a fresh charge memo dated 30.8.2005. The same is challenged in this writ petition.

The petitioner contends that the fresh charge memo was issued, only with a view to over come the time frame, stipulated by this Court in its orders, and the charge now framed against him is, nothing but the repetition of the Charge No.1, contained in the charge memo dated 5.11.2001, except that the figure is mentioned.

In the counter affidavit filed by the respondent, the facts that led to initiation of disciplinary proceedings, against the petitioner, were referred to. It is stated that though charges were framed against the petitioner, in the year 2001, the issuance of present charge memo was necessitated, on account of certain facts, which came to light during the course of verification.

It is always the prerogative of the University, to initiate disciplinary proceedings against its employees, in accordance with the rules framed by it. When the University issued charge memo dated 5.11.2001, the main grievance of the petitioner was that they were initiated, only with an object to, deprive him of the promotion. Other ancillary contentions were also raised. This court issued directions to the effect that the case of the petitioner shall be considered for promotion to the post of Professor, and that the pendency of disciplinary proceedings shall not be treated as an impediment. Ultimately, the petitioner was promoted. Petitioner filed W.P.No.12104 of 2003, challenging the very charge memo dated 5.11.2001. In one of the Miscellaneous Applications, this court passed an order on 10.11.2003, directing the University to finalise the proceedings against the petitioner, within a period of two months. A default clause was added. The petitioner retired from service on 31.8.2003. Thereafter, at the instance of the University, the period of time

for conclusion of the disciplinary proceedings was extended, up to 15.6.2004, through order, dated 26.4.2004. The respondent was directed to pay the gratuity to the petitioner.

Petitioner complains that ever since the order, dated 26.4.2004, passed by this court in W.P.No.12104 of 2003, the respondent did not take any steps, in the matter of conclusion of the disciplinary proceedings. He contends that the present charge memo was issued, only with a view to over come the time frame.

The charge framed through the impugned charge memo reads as under:

> "**Article-I**: That the said Dr.V.Bhanu Prasad, the then Associate Professor, Department of Soil Science & Agricultural Chemistry, while working as Warden of the hostel of Agricultural College, Bapatla, along with Sri G.Ch. Somaiah, the then Senior Assistant & Caretaker, during the period from 1991 to 31.10.2001, has not collected the mess dues to the tune of Rs.6,64,549.53 from certain batches of students which resulted in financial loss to the University as short collection of mess dues."

Article-I of the charge memo, dated 5.11.2001, is to the following effect:

> "**Article-I:** That the said Cr.V.Bhanu Prasad, Associate Professor, Department of Soil Science & Agricultural Chemistry (nowunder suspension) while functioning as Warden in the Hostel of Agricultural College, Bapatla, during the period from 1991 to 31.10.2000, has not collected the mess dues charges from students based on the actual expenditure incurred for the period for 11/96 and from 12/97 to 12/98."

From a reading of Articles of charge in both the charge memos, it is evident that they relate to the same period, and the allegation is in relation to alleged non-collection of the mess charges by the petitioner. The only difference is that in the charge memo, dated 5.11.2001, the figure of Rs.10,71,118/- is mentioned on the basis of approximate receipts, whereas, the actual figures are stated in the impugned charge memo, dated 30.8.2005. The petitioner had made his stand clear, and flatly denied his liability in the matter of non-collection of mess charges, for the period referred to above. When he has denied his liability, in respect of a larger amount calculated on rough estimates, in relation to the same period, there was no point in asking him to explain, in relation to a different amount for the same period, on the same allegations. It was in this context, that an order of stay was granted on 7.10.2005.

In Writ Appeal No.2201 of 2005, filed by the respondent, a Division Bench of this Court set aside the same, with the following observation:

> "No doubt there is no delay in finalizing the enquiry on behalf of the respondent. During pendency of the enquiry, the charges were reframed on 30.8.2005 against the respondent to submit a written statement of his defence on the basis of the charge framed on 5.11.2001. Further, at the stage of disciplinary proceedings, this Court interdicted the same in exercise of its powers under Article 227 of the Constitution of India by way of interim direction. It is always open for the appellant to challenge the same by way of a writ petition under Article 227 of the Constitution of India. Hence, we do not find any justification to grant any interim order pending writ petition."

In view of the observations made by the Division Bench, which are extracted above, this Court does not intend to express any opinion, as to whether there was any delay on the part of the University, in conclusion of disciplinary proceedings, or as to the nature of consequences, that must follow, on account of the non-adherence of the time frame, stipulated by this court in the order, dated 26.4.2004. It has already been observed that, on a comparison of the charges framed in the charge memo, dated 5.11.2001, and the impugned charges, nothing fresh is alleged against the petitioner, except that a figure was indicated. The petitioner has already submitted his explanation to the first charge memo, denying his involvement. Therefore, no fresh explanation is warranted from the petitioner, and the impugned charge memo is to be treated as superfluous, for all practical purposes.

The writ petition is accordingly disposed of, directing that the explanation submitted by the petitioner, in relation to Article-I of charge memo dated 5.11.2001, shall be treated as holding good, for the impugned charge memo dated 30.8.2005. There shall be no order as to costs.

_____

(L.NARASIMHA REDDY, J)

Dt.21st February 2006

PAN